

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE

Most civil disputes are resolved without filing a lawsuit and most civil lawsuits are resolved without the necessity of a trial. The courts, community organizations and private providers offer a variety of ADR processes to help people resolve disputes without a trial. Kern County Superior Court encourages, and under certain circumstances, may require parties to try ADR before trial. Courts have also found ADR to be beneficial when used early in the case process.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. You may find more information about these ADR processes at [www.courts.ca.gov/programs/adr](http://www.courts.ca.gov/programs/adr).

## **Possible Advantages and Disadvantages of ADR**

ADR may have a variety of advantages or disadvantages over a trial depending on the type of ADR process used as well as the particular type of case involved.

Possible Advantages: Saves time; saves money; gives the parties more control over the dispute resolution process and outcome; helps to preserve and/or improve party relationships.

Possible Disadvantages: May add additional time and costs to the litigation if ADR does not resolve the dispute; procedures such as discovery, jury trial, appeals, and other legal protections may be limited or unavailable.

## **Most Common Types of ADR**

Mediation: A neutral person or “mediator” helps the parties communicate in an effective and constructive manner so the parties can try to resolve their dispute. The mediator does not decide the outcome,

but helps the parties to do so. Mediation is generally confidential and may be particularly useful where ongoing relationships are involved, such as between family members, neighbors, employers/employees or business partners.

Settlement Conferences: A judge or another neutral person assigned by the court helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement conference neutral does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different views about the likely outcome of a trial in their case.

Neutral Evaluation: The parties briefly and informally present their facts and arguments to a neutral person who is often an expert in the subject matter of the dispute. The neutral does not decide the outcome of the dispute, but helps the parties to do so by providing them with a non-binding opinion about the strengths, weaknesses and likely outcome of their case. Depending on the neutral evaluation process, and with the parties' consent, the neutral may then help the parties try to negotiate a settlement. Neutral evaluation may be appropriate when the parties desire a neutral's opinion about how the case might be resolved at trial; and, if the primary dispute is about the amount of damages or technical issues, the parties would like a neutral expert to resolve those disputes.

Arbitration: The parties present evidence and arguments to a neutral person or "arbitrator" who then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are generally more relaxed. If the parties agree to *binding* arbitration, they waive their right to a jury trial and agree to accept the arbitrator's decision. With *nonbinding* arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time and expense of a trial,

or desire an expert in the subject matter of their dispute to make a decision.

### **Selecting an ADR Program and Neutral**

Selecting an ADR program and neutral are important decisions. Be sure to learn about the rules of any program and the qualifications and required fees of any neutral you are considering. Some programs and neutrals do not charge the parties for their ADR services, but others may charge the parties administrative fees and/or fees for the neutral's time. Information about the various Arbitrators and Early Neutral Evaluators on the Court's ADR panel is available at

[www.kern.courts.ca.gov/civil/courtapprovedadrpanellist](http://www.kern.courts.ca.gov/civil/courtapprovedadrpanellist).

The Court does not maintain a Mediator panel.

To find a private ADR program or neutral, you may search the internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement or arbitration services.

### **Local ADR Programs**

Kern County Superior Court has collaborated with the Better Business Bureau, the community and the local bar to establish alternative dispute resolution (ADR) programs which comply with legal requirements and provides a high quality of service to the public. The court currently sponsors programs such as arbitration in unlimited cases through the ADR Arbitrator Panel.

Kern County Superior Court has also contracted with the Better Business Bureau (BBB) under the Dispute Resolution Programs Act (DRPA) to provide mediation services in limited civil cases, small claims, unlawful detainer, civil harassment, family law and probate matters, and through the Victim Offender Reconciliation Program (VORP) in juvenile court proceedings. More information about BBB Mediation Services is available at [www.bbbmediation.org](http://www.bbbmediation.org), or call toll free 800-675-8118 ext. 300 or 661-616-5252.

Although complaints about ADR neutrals in court programs are uncommon, Kern County Superior Court provides a complaint procedure. If you have a complaint or a concern about a neutral in any of this court's ADR programs, or simply have a question about ADR, please contact the ADR Administrator at [ADRAdministrator@kern.courts.ca.gov](mailto:ADRAdministrator@kern.courts.ca.gov).

### **Legal Representation and Advice**

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California Courts Website at [www.courts.ca.gov/selfhelp/gettingstarted/freeandlowcostlegalhelp](http://www.courts.ca.gov/selfhelp/gettingstarted/freeandlowcostlegalhelp).

For questions about the Kern County Superior Court ADR Programs, please contact the ADR Administrator at [ADRAdministrator@kern.courts.ca.gov](mailto:ADRAdministrator@kern.courts.ca.gov) or 661-868-5433.